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COMMISSIONERS

GARY PIERCE - Chairman BOB STUMP SANDRA D. KENNEDY PAUL NEWMAN BRENDA BURNS 7012 JAN 25 P 1: 44

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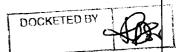
BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

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IN THE MATTER OF THE APPLICATION OF UNION PACIFIC RAILROAD COMPANY FOR APPROVAL TO INSTALL NEW CONSTANT WARNING TIME DEVICE AT CITY OF TEMPE QUIET ZONE PROJECT - 13TH ST HIGHWAY. DOCKET NO. RR-03639A-11-0039

PROCEDURAL ORDER
(Notice of Administrative Closure)

## BY THE COMMISSION:

On January 25, 2011, the City of Tempe ("City") filed with the Arizona Corporation Commission ("Commission") an application to obtain approval for the Union Pacific Railroad ("Railroad") to upgrade a crossing at 13<sup>th</sup> Street with the addition of constant warning time ("CWT") circuitry for an industrial track as part of a quiet zone project.

On February 14, 2011, the Commission's Safety Division, Railroad Safety Section ("Staff") filed a Staff Report and Proposed Order recommending that the City's application be approved.

On May 17, 2011, the City filed a request to postpone Commission consideration of the application. The City stated that it was awaiting a determination from the Federal Railroad Administration ("FRA") whether it would approve a petition for a waiver by the City for the requirement of the installation of CWT circuitry for the industrial track at 13<sup>th</sup> Street as part of the quiet zone project because it would not be reasonably practical.

On December 22, 2011, the City filed a Motion to Withdraw its application in this proceeding because the FRA had determined that a waiver is not required and that the use of CWT circuitry on the industrial track in this instance is not reasonably practical. This is because the Railroad's main track at the 13<sup>th</sup> Street crossing is already equipped with CWT circuitry and other automatic warning devices which will insure adequate public safety at the crossing.

On January 24, 2012, Staff filed its response to the City's Motion to Withdraw its application. Staff indicated that it had confirmed that the FRA has found that a waiver is not required and that the

1	installation of CWT circuitry at the industrial track is not necessary under the circumstances and is
2	not reasonably practical. This was indicated in a copy of a letter from the FRA to the City which was
3	attached to Staff's response, wherein the letter stated there are additional traffic control devices and
4	extremely slow train speeds at the industrial track adjacent to the main track at the crossing. Further,
5	Staff indicated that the withdrawal of the application in this proceeding will not impede the City's
6	efforts to implement the quiet zone.
7	Accordingly, this docket should be administratively closed.
8	IT IS THEREFORE ORDERED that the above-captioned proceeding shall be
9	administratively closed.
10	DATED thisday of January, 2012.
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12	The state of the s
13	MARC E. STERN ADMINISTRATIVE LAW JUDGE
14	ABIMIND HUIT DELW COECE
15	Copies of the foregoing mailed/delivered this day of January, 2012 to:
16	Robert Yabes, Principal Planner CITY OF TEMPE Anthony J. Hancock Terrance L. Sims
17	P.O. Box 5002  BEAUGUREAU, ZUKOWSKI & HANCOCK, P.C. 31 East 5 <sup>th</sup> Street, Garden Level  Tempe, AZ 85280-5002  BEAUGUREAU, ZUKOWSKI & HANCOCK, P.C. 302 East Coronado Road Phoenix, AZ 85004-1524
18	Tempe, AZ 85280-5002 Phoenix, AZ 85004-1524 Attorneys for Union Pacific Railroad Company  Andrew Ching, City Attorney
19	CITY OF TEMPE  Vicki Bever, Manager  21 East Sixth Street, Suite 201  Utility & Railroad Engineering
20	Tempe, AZ 85281-3681  ARIZONA DEPARTMENT OF TRANSPORTATION 205 South 17 <sup>th</sup> Avenue, M/D 618E Phoenix, AZ 85007
21	CITY OF TEMPE 31 East Fifth Street  Janice Alward, Chief Counsel
22	Tempe, AZ 85281-3601  Legal Division  ARIZONA CORPORATION COMMISSION  Zoe Richmond, Director of Public Affairs  Legal Division  ARIZONA CORPORATION COMMISSION  1200 West Washington Street
23	Zoe Richmond, Director of Public Affairs  UNION PACIFIC RAILROAD COMPANY  631 South 7 <sup>th</sup> Street  1200 West Washington Street Phoenix, AZ 85007
24	Phoenix, AZ 85034-2203  Brian Lehman, Chief Railroad Safety Section of the Safety Division
25	Alex Popovici, Manager  Industry & Public Projects  UNION PACIFIC RAILROAD COMPANY  ARIZONA CORPORATION COMMISSION 1200 West Washington Street Phoenix, AZ 85007
26	631 South 7 <sup>th</sup> Street Phoenix, AZ 85034-2203
27	By: ///// Debra Broyles / Secretary to Marc E. Stern
20	Secretary to Aviate 12. Sterii